

**WILLIAMSBURG
BOARD OF ZONING APPEALS
MINUTES**

June 3, 2003

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, June 3 at 3:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

ATTENDANCE

Present were Board members Carr, Kafes, Chohany, Knudson, and White. Also present were Zoning Administrator Murphy and Secretary Scott.

CALL TO ORDER AND MINUTES

Chairman Carr called the meeting to order.

Mrs. Knudson moved that the minutes of the May 6, 2003 meeting be approved as submitted. The motion was seconded by Mr. Chohany and carried by roll call vote of 5-0.

PUBLIC HEARINGS

BZA #03-10: Request of University Suites, LLC for a five foot side yard variance from Section 21-192 of the Zoning Ordinance. It is proposed to reduce the 25 foot side yard setback shown on the recorded subdivision plat to 20 feet for 100 Brockton Court and 244 Brookwood Drive. The properties are zoned Multi-Family Dwelling District RM-1 and are located on Williamsburg Tax Map Number 583-(06)-00-038 and 582-(06)-00-039. Denied.

Chairman Carr introduced the request for a variance and invited the applicant to comment.

Peter Fallon, representative for University Suites, LLC, stated that this request is necessitated by the side yard setback on the two lots needing to be reduced from 25 to 20 feet so that the Jefferson unit will fit. He said there are currently seven models which have been approved by the City's Architectural Review Board and the Jefferson unit contains an elevator which has been identified by sales associates as a need for the development. He noted the two lots are currently under contract for the Jefferson model, and if this request is not approved the sales will be lost. He also noted that none of the approved model units will fit on the lot and presented the Board a handout with the widths of the seven approved

model units. Mr. Fallon concluded his comments by submitting letters of support from the resident at lot 36 and the potential purchaser of lot 39.

Chairman Carr opened the public hearing.

Gail Dubrow, lot 35, 112 Brockton Court, noted that the Board has the letter she wrote requesting denial of the variance. She said that her main concern is the diminished visibility at the three-way intersection, where there is already a hazard. The main street into the development, Brookwood Drive, is uphill and curved, adding to the visibility concern. Ms. Dubrow suggested that the intent of the original setback was probably the provision of adequate visibility.

Howard Glenn, lot 17, 120 Exmoor Court, said that he would like to have screening in front of the mechanical equipment at the new construction sites.

David Olsen, lot 51, 104 Exmoor Court, stated he doesn't have a problem with the Board approving a variance to decrease the setback, but does feel screening of the mechanical equipment is necessary.

Mr. Olsen also stated that he would like to talk with someone on the Board about presentations at meetings and the fact that the audience isn't able to hear the presenters' comments very well. Chairman Carr will be contacting Mr. Olsen for this discussion.

Ian Woodrow, lot 31, 128 Brockton Court, stated that he doesn't have a problem with reducing the setback to 20'.

Eleanor Cannon, lot 23, 101 Exmoor Court, and **Yvette Anthony**, lot 33, 120 Brockton Court stated that they are also concerned about the visibility issue previously expressed by their neighbor Gail Dubrow.

There being no additional comments Chairman Carr closed the public hearing.

Some of the Board's comments follow:

- The Chairman clarified that the only issue before the Board today is a request for a five foot side yard variance. Design features or architectural components of the proposed structure are not to be considered. Those issues are under the purview of the Architectural Review Board or other City review functions.
- Several members expressed that they cannot support the granting of the variance because sufficient hardship to allow an encroachment into the required side yard setback does not exist.
- This is purely a case of the wrong building for this parcel.
- The streets are public streets, constructed to VDOT standards and maintained by the City. The visibility issue is a justified concern.

Mr. Kafes moved that the request for a five foot side yard variance be denied based on failure of the applicant to satisfy the requirements of Section 21-97(b)1. of the Zoning Ordinance which states that:

"When a property owner can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property immediately adjacent thereto, the strict application of the terms of the applicable provisions of this chapter would effectively prohibit or unreasonably restrict the utilization of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter."

The motion for denial is also based on the inability of the Board to make the findings otherwise required by Section 21-97(b)2. of the Zoning Ordinance which states that "No such variance shall be authorized by the Board unless it finds:

- a. That the strict application of this chapter would produce undue hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance."

Mrs. Knudson seconded the motion which carried by roll call vote of 5-0.

Aye: Carr, Chohany, Kafes, Knudson, White

No: None

Absent: None

OLD BUSINESS

Law Suit

Mrs. Murphy gave a brief update on the law suit regarding the Thorpe case and noted that she, City attorney Phillips, and attorney for the plaintiff, Sheldon Franck, met recently to discuss the case. As of this date, a hearing for the suit had not been determined.

NEW BUSINESS

Presentations

The Board discussed possible methods of arranging the hearing room to better enable the audience to hear case presentations. Consensus of the Board was to ask anyone addressing the Board to use the lectern which will be placed near the Board, adjacent to the secretary.

There being no further business the meeting adjourned at 3:55.

Respectfully submitted,

Michael P. Chohany, Secretary
Board of Zoning Appeals